

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

Paper No. 49

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MANFRED ASSMUS
and
HANS-ULRICH PETEREIT

Appeal No. 2000-1405
Application No. 08/813,950

ORDER REMANDING TO EXAMINER

Appellants filed an Information Disclosure Statement (IDS) on June 8, 1998 (Paper No. 24). It is not clear from the record whether the examiner considered the statement submitted or whether the examiner notified appellant of why his submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

Furthermore, appellants filed an Appeal Brief on November 23, 1999 (Paper No. 39). The examiner indicated on page 2, section (8) of the Examiner's Answer mailed on February 1, 2000 (Paper No. 44) that "[t]he copy of the appealed claims contained in the Appendix to the brief is correct."

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However, a review of the Appendix to the Brief reveals that claim 17 contains an error as follows:

Claim 17, line 6: Delete "--essentially--."

Accordingly, it is

ORDERED that the application is remanded to the examiner for

- (1) consideration of the IDS filed June 8, 1998 (Paper No. 24),
- (2) notification to appellants in writing of consideration,
- (3) for notifying appellants to submit a corrected copy of claim 17 on appeal, or for the examiner to submit a corrected copy of claim 17 on appeal,
- (4) and for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

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CRF:clm

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